

E-FILED 4/27/07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DHIA Y. ALRAWI,

No. C 07-02181 RS

Plaintiff,

v.

ORDER TO SHOW CAUSE

ALBERTO GONZALES, et al.

Defendants.

On April 19, 2007 plaintiff Dhia Yassen Alrawi, appearing through counsel, filed a "Complaint for Writ of Mandamus" against Alberto Gonzales, Attorney General of the United States, and other government officials in their official capacities. Plaintiff alleges Defendants have failed to process his application for naturalization in a timely manner, apparently as a result of delays in obtaining a completed background check clearance from the Federal Bureau of Investigation. Plaintiff asserts that Defendants have violated 8 U.S.C. § 1447(b), which provides:

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

Plaintiff requests that this Court assume jurisdiction and act on his naturalization application or compel defendants to take action.

Good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

(1) The Clerk of the Court shall serve a copy of the complaint and a copy of this Order upon counsel for Defendants, the Office of the United States Attorney. The Clerk of the Court also shall serve a copy of this Order upon Plaintiff.

(2) Defendants shall, within sixty (60) days after receiving service of the complaint, file and serve upon Plaintiff an answer, showing cause why the relief prayed for should not be granted. At the time the answer is filed, Defendants shall lodge with the Court all records relevant to a determination of the issues presented by the complaint. If Defendants contend that Plaintiff has failed to exhaust administrative remedies as to any ground for relief asserted in the complaint, Defendants shall specify what administrative remedy remains available to Plaintiff. If Defendants waive or concede the issue of exhaustion, Defendants shall so state in their answer.

(3) Plaintiff may file a response to the matters raised in the answer within twenty (20) days after receiving the answer.

(4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon the filing of the response or upon the expiration of time to file a response.

(5) No later than the time their respective responses hereunder are due, the parties shall make their determination regarding the issue of consent to the jurisdiction of the Magistrate Judge and file the appropriate form. In the event any party declines to consent to the jurisdiction of the Magistrate Judge, this action will be reassigned to a District Judge for further proceedings.

(6) The Order Setting Initial Case Management Conference and ADR deadlines entered on April 19, 2007, in this action is hereby VACATED.

IT IS SO ORDERED.

Dated: April 27, 2007



RICHARD SEEBORG
United States Magistrate Judge

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS MAILED TO:**

2 Catherine Lynn Raynor, Esq.
3 Law Office Kate L. Raynor
4 15720 Ventura Blvd #312
Encino, CA 91436

5 Dated: April 27, 2007
6

7
8 /s/ BAK
Chambers of Magistrate Judge Richard Seeborg
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28